

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MILTON MUSA PACHECO,

Plaintiff,

-v.-

9:05-CV-0998
(LEK)(RFT)

MARIO DEACEVEDO, *et al.*,

Defendants.

APPEARANCES:

MILTON MUSA PACHECO
Plaintiff, *pro se*
79-B-0064
Clinton Correctional Facility
Box 2000
Dannemora, New York 12929

RANDOLPH F. TREECE, U.S. MAGISTRATE JUDGE

ORDER

The Clerk has sent to the Court a civil rights Complaint, together with an Application to Proceed *In Forma Pauperis*, filed by *pro se* Plaintiff Milton Pacheco, who is currently incarcerated at Clinton Correctional Facility. Dkt. Nos. 1-2. Pacheco has paid the filing fee to maintain this action.

In his *pro se* Complaint, Plaintiff alleges that the Defendants were deliberately indifferent to his serious medical needs.¹ For a more complete statement of Plaintiff's claims, reference is made to the entire Complaint. Dkt. No. 1, Compl.

As to Plaintiff's *In Forma Pauperis* Application, after reviewing the entire file, the Court

¹ It is not clear to this Court whether this action was timely filed or whether Plaintiff has sufficiently plead a continuous violation claim against all of the Defendants named therein. *Cf. Shomo v. City of New York*, 2005 WL 756834 (S.D.N.Y. 2005). However, the Court has been guided by the direction given by the Second Circuit in its recent decision in *Phillips v. Girdich*, 408 F.3d 124 (2d Cir. 2005) and will accept the Complaint for filing purposes.

finds that the Plaintiff may properly proceed with this matter *in forma pauperis*.

WHEREFORE, it is hereby

ORDERED, that Plaintiff's *In Forma Pauperis* Application (Dkt. No. 2) is **granted**.²

The Clerk shall issue Summonses and forward them, along with copies of the Complaint, to the United States Marshal for service upon the named Defendants. The Clerk shall forward a copy of the Summons and Complaint by mail to the Office of the Attorney General for the State of New York, together with a copy of this Order; and it is further

ORDERED, that a response to Plaintiff's Complaint be filed by the Defendants or their counsel as provided for in the Federal Rules of Civil Procedure after service of process on the Defendants; and it is further

ORDERED, that all pleadings, motions and other documents relating to this action be filed with the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367. **Any paper sent by a party to the Court or the Clerk must be accompanied by a certificate showing that a true and correct copy of same was mailed to all opposing parties or their counsel. Any document received by the Clerk or the Court which does not include a certificate of service showing that a copy was served upon all opposing parties or their attorneys will be returned, without processing.** Plaintiff must comply with any requests by the Clerk's Office for any documents that are necessary to maintain this action, including an original Summons showing a complete title of this action, a civil cover sheet, sufficient copies of completed USM-285 forms and copies of his Complaint, along with any exhibits attached thereto, for service upon

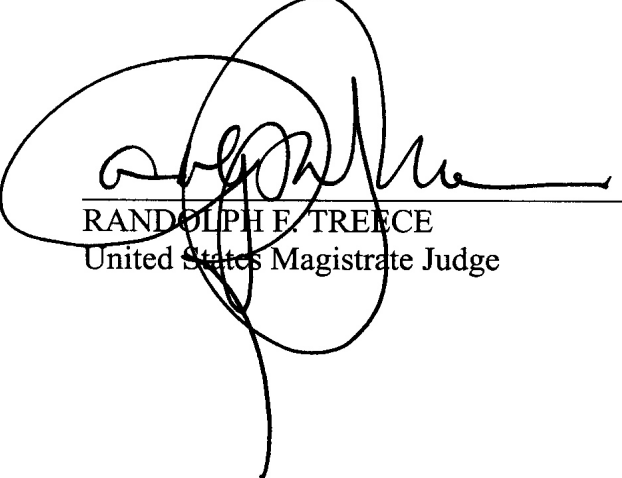
² Plaintiff should note that although the Application to Proceed *In Forma Pauperis* has been granted, Plaintiff will still be required to pay fees that he may incur in this action, including copying and/or witness fees.

the defendants. All parties must comply with Local Rule 7.1 of the Northern District of New York in filing motions, which must be returnable before the assigned Magistrate Judge with proper allowance for notice as required by the Rules. **Plaintiff is also required to promptly notify the Clerk's Office and all parties or their counsel of any change in plaintiff's address; his failure to do same will result in the dismissal of this action.** All motions will be decided on submitted papers without oral argument unless otherwise ordered by the Court; and it is further

ORDERED, that the Clerk serve a copy of this Order on the Plaintiff by regular mail.

IT IS SO ORDERED.

Date: August 30, 2005
Albany, New York



RANDOLPH F. TREECE
United States Magistrate Judge